

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEVARON EDNARDO HOLLAND,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL CASE NO. 05-73532

Criminal No. 00-80921-02

HON. LAWRENCE P. ZATKOFF

ORDER

This matter is before the Court for a determination as to whether a certificate of appealability should issue in this matter. “In a habeas corpus proceeding in which the detention complained of arises from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless” a certificate of appealability is issued under 28 U.S.C. § 2253(c). FED. R. APP. P. 22(b)(1). A certificate of appealability may be issued “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). In order to make such a substantial showing, a petitioner must show that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court must individually evaluate each issue raised by Petitioner, *see Murphy v. Ohio*, 263 F.3d 466, 467 (6th Cir. 2001), and shall specify the issue or issues upon which Petitioner has made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(3). If the Court declines to issue a certificate of appealability, it must state why it is declining to issue one. *See* FED. R. APP. P. 22(b)(1).

Petitioner has not moved for a certificate of appealability from the Court. Instead, Petitioner provided a general notice of appeal as to any adverse ruling, long before the Court could review his claims. *See* Docket #98. Apparently Petitioner was in the process of being moved from one federal penitentiary to another, and was concerned that he would not be able to preserve his right to appeal. However, following Petitioner's transfer, he filed another notice of appeal, *see* docket #102, stating that he will appeal the Court's Order Adopting Magistrate's Report and Recommendation issued March 2, 2006. The Court will treat Petitioner's Notice of Appeal as a general Motion for a Certificate of Appealability as to all of the issues Petitioner raised in his original petition for habeas relief. *See* Docket #88.

The Court has reviewed each issue presented, as well as the supporting materials. For the reasons stated in the Court's March 2, 2006, Order Adopting Magistrate's Report and Recommendation, Petitioner's request for a certificate of appealability is DENIED on each issue presented because Petitioner cannot make a substantial showing of a denial of a constitutional right on any issue. Accordingly, IT IS ORDERED that no certificate of appealability shall issue in this matter.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: September 28, 2006